

Award No. 687

Docket No. 648

2-ACL-MA-'42

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee I. L. Sharfman when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 42, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (MACHINISTS)**

ATLANTIC COAST LINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That Machinist W. K. Lewis, Tampa, Florida, should be compensated in the amount of \$182.56 to cover loss of time resulting from thirty (30) days' actual suspension from work, effective 4:00 P. M., September 28, 1940.

EMPLOYEES' STATEMENT OF FACTS: W. K. Lewis' employment with the carrier dates from October 11, 1922. He is now employed in the Tampa, Florida (Uceta) roundhouse with a machinists' seniority date of May 15, 1924. Lewis' roundhouse experience covers a period of sixteen years in the performance of all classes of machinists' work ordinarily handled in roundhouses. A part of his regular assignment of work, involved with this claim, includes relief of a regularly assigned differential engine inspector receiving the rate of 92¢ per hour.

On August 30, 1940, Machinist Lewis received the following notice over the signature of assistant roundhouse foreman, Mr. E. D. Barnett:

"We hold the following charge against you: After applying one pair of engine truck wheels to engine 1605 August 21 you failed to put the proper length bolt in the pedestal that holds the binders, causing an engine failure in Jacksonville yard.

I will give you an investigation in the master mechanics' office at 4:10 P. M., Tuesday, September 3. If you choose, you may have a representative with you at the investigation. You also have the opportunity of bringing any witnesses with you that you may consider necessary in answering the charge against you."

Between the dates of August 21, 1940, to August 30, 1940, when the foregoing notice was served on Machinist Lewis, both Lewis and his helper were called into the office of Master Mechanic Stephenson and, on different occasion, questioned by him with reference to whether washers had been placed on one of the engine truck binder bolts when performing their work on engine 1605, August 21, 1940. Foreman Barnett had also had occasion to question Machinist Lewis prior to the date of his investigation.

The investigation was held according to schedule and on September 26, 1940, Lewis received the following notice over the signature of Master Mechanic W. C. Stephenson:

The Jacksonville Terminal Company, who handled the engine at Jacksonville, state that there was no work done on this engine truck; therefore, the engine left the Jacksonville Terminal Company's roundhouse with the same bolts in the engine truck that were in the engine when it arrived there the previous evening. Affidavit from Jacksonville Terminal Company, Machinist A. N. Dow, shown as Exhibit E.

We just believe that after Machinist Lewis changed the engine truck wheels, he probably found that two of his engine truck binder bolts were missing. The chances are that he cut these bolts off with a torch when removing the binders. The chances are, also, that he told his helper to get some bolts and put them in and the helper just took the first bolts he found, washered them up so the binder would pull tight. The fact that the engine got from Tampa to Jacksonville, and to the Terminal Company's roundhouse is no argument at all that the job was done correctly. There is no question about the sloppy job done on this engine truck binder as we have the bolts on hand that did the damage on the Jacksonville Terminal Company's crossing. We are indeed fortunate that the engine did not hit any high crossing or high obstruction on the way north. If it had done this, it might have caused a serious derailment.

Machinist Lewis has been in the service of this company since 1922. He learned the business of running repair machinist and has worked as helper, step rate machinist and machinist ever since he entered the employ. He is quite familiar with roundhouse work and there is no excuse at all why he should have put bolts in an engine truck binder that did not have sufficient clearance from the rail. He well knew, as he admitted in his investigation, that there should have been a minimum clearance of 2½" from the rail. He was, therefore, solely responsible for putting up this work where the engine got disabled, due to his negligence.

The carrier contends that the discipline of thirty days' suspension placed against Machinist Lewis was fully justified, and therefore, respectfully requests the National Railroad Adjustment Board to deny this claim.

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due notice of hearing thereon.

The evidence of record does not disclose adequate grounds for disturbing the disciplinary action of the management.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 15th day of January, 1942.